

REMARKS

New claims 18 - 21 have been added. Claims 1 - 21 are now pending in this application. The allowance of claims 15 - 17 is gratefully acknowledged. In view of the following remarks, it is respectfully submitted that all of the presently pending claims are allowable.

Claims 1, 2, 4 - 6, 9 and 11 stand rejected under 35 U.S.C. § 103 as obvious over Storz-Irion (U.S. Published Patent Application No. 2002/0156500) in view of Thompson (U.S. Patent No. 5,662,654). The Examiner stated, in support of the rejection, that Storz-Irion shows a device as claimed except for the anchoring elements which are quite different in Storz-Irion as compared to those recited in the claims. The Examiner further stated that Thompson shows anchoring members as claimed and that it would have been obvious to have substituted the anchoring elements of Thompson for those of Storz-Irion to arrive at the claimed invention.

As an initial matter, it is respectfully submitted that Storz-Irion includes insufficient information to make a determination as to its status as prior art. That is, although a PCT filing date is stated on the face of this reference, no U.S. filing date is included on this publication. In addition, there is no indication that this PCT application was published in English. As indicated in MPEP 2136.03, an international filing date may be relied on to establish a U.S. filing date only where: 1) the international filing date is after November 29, 2000; 2) the international application designated the United States; and

3) the application was published under PCT Article 21(2) in English. If any of these conditions is not met, it is improper to rely on the international filing date for 35 U.S.C. § 102 and § 103 purposes. In such cases, the reference may be applied as of "any later U.S. filing date of an application that properly claimed the benefit of the international application." MPEP § 2136.03, II (B).

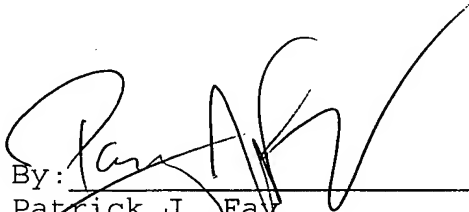
It is therefore respectfully submitted that Storz-Irion is not properly applied as prior art without some proof that this reference satisfies each of the above 3 conditions, consequently, it is submitted that this the rejection of claims 1, 2, 4 - 6, 9 and 11 based on the Storz-Irion reference should be withdrawn.

Claims 3, 7, 8, 10 and 12 - 14 stand objected to as dependent upon rejected base claims. In view of the above remarks concerning the allowability of these base claims, it is respectfully submitted that these claims are in condition for allowance. Furthermore, it is respectfully submitted that new claims 18 - 21 are allowable for the same reasons as the original claims.

It is therefore respectfully submitted that all of the presently pending claims are allowable. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

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